

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/796,384
Applicant : Roger H. Bollenbach
Filed : 03/09/2004
Title : FURNITURE HAVING LANDSCAPE CONTOUR
TC/A.U. : 3636
Examiner : PETER R. BROWN
Docket No. : E6011-00002

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Declaration Under 37 C.F.R. §1.132 of Tom Phillips

I, Tom Phillips, declare as follows:

1. I reside at 681 Bartlett Carry, Tupper Lake, New York.
2. I am a self-taught furniture maker, and design, manufacture, repair and sell rustic furniture.
3. I have worked in the field of rustic furniture repair for 32 years, and I have designed and manufactured rustic furniture for 24 years.
4. I have regularly been called upon, as an expert in the field, to restore rustic furniture, including Adirondack chairs.
5. I have designed, repaired, and built many chairs having the design characteristics of a classic Adirondack chair.
6. I am recognized in my field as possessing skill and knowledge in the field of rustic furniture design, manufacture, and repair.
7. I have reviewed the currently pending patent application Serial No. 10/796,384, entitled FURNITURE HAVING LANDSCAPE CONTOUR, that was filed by Mr. Roger H. Bollenbach on March 9, 2004.
8. I have also closely inspected an actual working model of the Adirondack chair invented by Mr. Bollenbach.
9. Prior to my review of Mr. Bollenbach's application for patent and his working model, I would not have thought that such a design would be suitable or desirable for an Adirondack chair.
10. Prior to reviewing Mr. Bollenbach's design and his working model, it would have been my opinion that his design did not lend itself to commercial manufacturing.
11. In particular, a traditionally designed Adirondack chair, having a traditional top edge at its back, would on a commercial basis, take between 4 to 6 hours to manufacture.

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12. It is my opinion that Mr. Bollenbach's Adirondack chair should have taken at least 6 to 8 hours to manufacture.

13. I have been surprised to learn that Mr. Bollenbach's chair may be manufactured within the 4 to 6 hours that is common for the full manufacture of a traditional Adirondack chair.

14. I have also been surprised with how accurately the top edge of the back of Mr. Bollenbach's chair depicts existing landscape contours and ridge profiles, particularly considering that the chair is manufactured within 4 to 6 hours. I would not have previously expected that the top edge of the back of such a chair could be shaped with such accuracy in such a relatively short time period.

15. I have also familiarized myself with U.S. Patent No. 2,118,676, issued to Mr. Lankton. Mr. Lankton presents a traditional Adirondack chair in an art deco inspired design.

16. In my opinion, there are a number of significant differences between Mr. Bollenbach's chair and the chair presented by Mr. Lankton, including the top edges of the backs of the chairs.

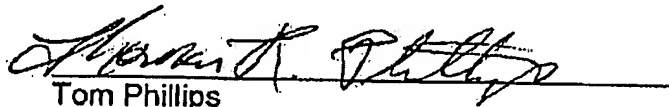
17. The top edge of the back of Mr. Lankton's chair shows a traditional curved edge of the type that would normally be manufactured by those in this field such as myself.

18. Nothing within the Lankton patent would have provided any motivation or suggestion to me or others of similar knowledge to modify Lankton's top edge to resemble one of a plurality of preselected scenic silhouettes of existing landscape contours, ridge profiles, or mountain ranges.

19. Furthermore, I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of U.S. Patent Application Serial No. 10/796,384, or any patent issued thereon.

Dated:

10/19/07


Tom Phillips
